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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

FIRST APPELLATE DISTRICT

DIVISION ONE

THE PEOPLE,

Plaintiff and Respondent,

v.

GERSON ELIXIR GARRIDO,

Defendant and Appellant.

A133863

(San Mateo County  
Super. Ct. No. SC074213A)

Following a court trial, defendant was convicted of possession of cocaine and placed on supervised probation for three years under Proposition 36. Defendant filed a timely appeal from the judgment of conviction. As required under *People v. Kelly* (2006) 40 Cal.4th 106, 124, we affirmatively note counsel for defendant has filed a *Wende* brief (*People v. Wende* (1979) 25 Cal.3d 436) raising no arguable issue, counsel apprised defendant of his right to file a supplemental brief, and defendant did not file such a brief. Upon review of the record for potential error, we conclude no arguable issues are presented for review and affirm the judgment.

**FACTUAL AND PROCEDURAL BACKGROUND**

This matter arises out of an incident in which a member of the of the San Mateo County Gang Task Force, Menlo Park Police Officer Stephen Neumann, discovered a small Ziploc baggie containing a useable amount of cocaine in defendant's right front pant, coin pocket. The search occurred after members of the task force observed two individuals inside a pickup truck with its lights off parked on a corner in the area of Willow Street in Redwood City. An officer parked the patrol car 20 feet behind the

truck, turned the spotlights onto the truck, and the four task force officers exited the patrol car. As Officer Neumann approached the vehicle, defendant exited from the passenger side, at which time Neumann saw marijuana on the dashboard of the vehicle in front of the passenger. Neumann, who was not fluent in Spanish, asked defendant in Spanish “if he was carrying anything illegal, if I could check his person.” Neumann learned this statement from other officers and friends who speak Spanish, and Deputy Velasquez, a fluent Spanish speaker, was next to Neumann and defendant when Neumann spoke. According to Neumann, defendant appeared to understand his Spanish question whether defendant possessed “anything illegal” and responded in Spanish, “he did not and I could check.” During this time, Velasquez assisted Neumann in translating. Spanish is Velasquez’s first language and he is certified in advanced Spanish by San Mateo County. Following this exchange, Neumann conducted the above described search discovering cocaine.

Defendant called no witnesses to testify at his trial.

An information was filed on September 9, 2011, charging defendant with one count of possession of a controlled substance, cocaine, a violation of Health and Safety Code section 11350, subdivision (a). Defendant, prior to assignment to a courtroom for trial, waived his right to a jury trial. Following a short court trial, defendant was found guilty as charged. On the same day defendant was found guilty, the court suspended imposition of sentence and placed him on three years of supervised probation under Proposition 36.

## **DISCUSSION**

Defendant was ably represented by counsel throughout the proceedings.

There was substantial evidence presented that defendant consented to the search of his person and that a usable amount of cocaine was located in his right pant, coin pocket.

We find no meritorious sentencing issues requiring reversal of the judgment.  
There are no issues requiring further briefing. The judgment is affirmed.

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Margulies, J.

We concur:

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Marchiano, P.J.

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Dondero, J.